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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/624,433

07/22/2003

Doug Bender

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TOLER LAW GROUP
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SUITE A201
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EXAMINER

DUONG, DUC T

ART UNIT

PAPER NUMBER

2619

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/624,433	Applicant(s) BENDER ET AL.	
	Examiner Duc T. Duong	Art Unit 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-26 and 35-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-26 and 35-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/13/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 12-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 35-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding to claim 35, there does not appear to be a written description of the claimed limitations "processing logic" and "memory accessible to the processing logic, the memory comprising instructions". As such, the claim fail to provide enablement the requirement.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

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by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 12, 13, 17-20, 35, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Bollinger et al (US Patent 7,113,500 B1).

Regarding to claims 12 and 35, Bollinger discloses a system for routing a telephone call over a voice and data network 18 (fig. 2), the system comprising receiving, at a telecommunication gateway TCG 16 associated with a called telephone number, a call directed to the called telephone number; (fig. 4 col. 12 lines 7-11); determining whether the call is a voice and data network VDN call (fig. 4 col. 12 lines 11-24); when the call is a VDN call, converting the call into a format compatible with the voice and data network (col. 1 lines 43-47) and transfer the converted call to a destination device 20 via the voice and data network (fig. 2 col. 5 lines 11-24); and when the call is not a VDN call, connecting the call to a telephone associated with the called telephone number (fig. 4 col. 12 lines 62-col. 13 lines 1-3).

Regarding to claim 13, Bollinger discloses the calling device is a plain old telephone (fig. 1 col. 1 lines 34-43).

Regarding to claim 17, Bollinger discloses transferred the call the to destination device via PSTN (fig. 4 col. 12 lines 50-65).

Regarding to claims 18 and 42, Bollinger discloses the voice and data network is Internet (col. 1 lines 14-21).

Regarding to claim 19, Bollinger discloses receiving a VDN call designator and determining whether the VDN designator is received (col. 6 line 59-col. 7 line 25).

Regarding to claim 20, Bollinger discloses the VDN designator includes information indicating selection of one or more keys at a telephone keypad (col. 7 line 25-col. 8 line 10).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bollinger in view of Galvin et al (US Patent 6,351,464 B1).

Regarding to claims 14 and 15, Bollinger discloses all the limitations with respect to claim 12, except for the calling device is a mobile device such as a wireless telephone and that a call from it would be routed to PSTN prior to the TCG. However, Galvin discloses a telecommunication system for routing a call from a mobile device 10

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to a data device 18 via PSTN network 14 prior to routing the call to the Internet telephone gateway 28 (fig. 1 col. 4 lines 39-65). Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to employ a calling device as mobile device as taught by Galvin into Bollinger's system for communication with wireless networks.

7. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bollinger in view of Chang et al (US Patent 6,700,956 B2).

Regarding to claims 21-22, Bollinger discloses all the limitations with respect to claim 12, except for determining whether a voice and data network designator is present in the calling code, wherein the designator is a tone produced by prompting the calling party entering the “#” key on a telephone keypad.

However, Chang discloses an apparatus and method for the caller to select which networks, PSTN or Internet, to establish the call; wherein for internet call the caller is prompt to enter the “#” on the telephone keypad (fig. 5 col. 4 lines 41-58).

Thus, it would have been obvious to a person of ordinary skill in the art to employ such entering of keystroke on the telephone keypad as taught by Chang into Bollinger's system to provide a simple mechanism to toggle between the PSTN networks and Internet telephony service.

8. Claims 23-26 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bollinger in view of Smyk (US Patent 6,597,686 B1).

Regarding to claim 23-26 and 40, Bollinger discloses all the limitations with respect to claim 1, except for determining whether a calling party of the call is

authorized to make a VDN call prior to transferring the converted call to the destination device via the voice and data network (claim 23); capturing called ID data associated the call (claim 24); determining the destination device before transferring the converted call to the destination device, wherein the determining is performed by sending a dialing signal to a calling device and receiving a calling code associated with the destination device from the calling device (claim 25); and using the calling code to address data packets to the destination device (claim 26)

However, Smyk discloses an apparatus and method for Internet telephony routing, wherein authorization of the calling's party to access a telephone service network is verified via capturing the calling party's identification and once the verification is completed, the call is routed to the called party based on the destination number entered by the calling party and the telephone service carrier selected by the calling party (fig. 3-4 col. 5 lines 15-43).

Thus, it would have been obvious to a person of ordinary skill in the art to employ such authorization step via caller ID and determining a calling code step as taught by Smyk into Schuster's system to prevent unauthorized access and use of the network resources, as well as, provided alternative routing based on least cost of calls.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571-272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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1/18/08
WING CHAN
SUPERVISORY PATENT EXAMINER